IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No.139 of 2006.

Date of decision: 21st December, 2015.

Shri Anoop Singh .. Petitioner.

Versus

The HP State Cooperative Bank Ltd. and another .. Respondents.

Coram :

The Hon'ble Mr. Justice Dharam Chand Chaudhary, Judge.

Whether approved for reporting?[1] No.

For the petitioner: **Mr. Parmod Negi, Advocate, vice Mr. Suneet Goel, Advocate.**

For the respondents: **Mr. Surinder Sharma, Advocate.**

Dharam Chand Chaudhary, J (Oral).

Challenge herein is to an order passed on 14.6.2006 by learned District Judge, Shimla, whereby the execution filed by the petitioner has been dismissed as satisfied on adjustment of a sum of ₹2,27,342/- allegedly due and payable to the respondents (Judgment Debtors)

[1]Whether reporters of Local Papers may be allowed to see the judgment? Yes

in the Court below against the petitioner (decree holder) Consequent upon a decree passed by a Court at Delhi.

2. Some Court at Delhi may have passed a decree in favour of the respondent-JDs and against the petitioner-DH, however, there is nothing on record to show that the decree has attained finality and the amount, i.e., ₹2,27,342/-was due and payable to the respondent-JDs against the petitioner-DH during the course of execution proceedings. Therefore, learned executing Court below should have not made the adjustment of the so called decretal amount, i.e., ₹2,27,342/- and dismissed the execution as satisfied without holding any enquiry as to whether the amount in question was in fact due and admissible to the respondent-JDs or not. It being so, order dated 14.6.2006 being legally and factually unsustainable is hereby quashed and set aside. The executing Court to decide the execution petition afresh in the light of the observations made hereinabove. In the event of there being no final adjudication qua the admissibility of the sum of ₹2,27,342/- to the respondent-JDs against the petitioner-DH, this amount shall not be adjusted towards

the decretal amount due and admissible to the petitioner-DH. The respondent-JDs, however, shall have the liberty to initiate the proceedings in accordance with law to recover this amount from the petitioner-DH, if any decree has been passed by Delhi High Court in this regard. The petition is accordingly allowed and stands disposed of. The parties to appear before learned District Judge, Shimla on **13th January, 2015**.

Copy ***Dasti.***

December 21, 2015
(rc)

(Dharam Chand Chaudhary)
Judge.